



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शुक्रवार, १८ अक्टूबर, १९६८/२६ आश्विन. १८६०

GOVERNMENT OF HIMACHAL PRADESH ELECTION DEPARTMENT NOTIFICATION

Simla-2, the 5th October, 1968

No. 6-26/68-Elec. (I).—The Election Symbols (Reservation and Allotment) Order, 1968, dated the 31st August, 1968, issued by the Election Commission of India is republished for general information.

By order,
D. B. LAL,
Chief Electoral Officer.

ELECTION COMMISSION OF INDIA *New Delhi, the 31st August, 1968/9th Bhadra, 1890 (Saka)* THE ELECTION SYMBOLS (RESERVATION AND ALLOTMENT) ORDER, 1968

AN
ORDER

to provide for specifications, reservation choice and allotment of symbols at elections in parliamentary and assembly constituencies, for the recognition of political parties in relation thereto and for matters connected therewith.

S.O.—Whereas the superintendence, direction and control of all

elections to Parliament and to the Legislature of every State are vested by the Constitution of India in the Election Commission of India;

AND WHEREAS it is necessary and expedient to provide in the interests of purity of elections to the House of the People and the Legislative Assembly of every State and in the interests of the conduct of such elections in a fair and efficient manner, for the specification, reservation, choice and allotment of symbols, for the recognition of political parties in relation thereto and for matters connected therewith;

NOW, THEREFORE, in exercise of the powers conferred by article 324 of the Constitution, read with rule 5 and rule 10 of the Conduct of Elections Rules, 1961, and all other powers enabling it in this behalf, the Election Commission of India hereby makes the following Order:—

1. Short title, extent, application and commencement.—(1) This Order may be called the Election Symbols (Reservation and Allotment) Order, 1968.

(2) It extends to the whole of India and applies in relation to elections in all parliamentary and assembly constituencies other than assembly constituencies in the State of Jammu and Kashmir.

(3) It shall come into force on the date of its publication in the Gazette of India which date is hereinafter referred to as the commencement of this Order.

2. Definitions and interpretation.—(1) In this order, unless the context otherwise requires,—

(a) “clause” means a clause of the paragraph or sub-paragraph in which the word occurs;

(b) “Commission” means the Election Commission of India constituted under article 324 of the Constitution;

(c) “constituency” means a parliamentary constituency or an assembly constituency;

(d) “contested election” means an election in a parliamentary or an assembly constituency where a poll is taken;

(e) “election” means an election to which this order applies;

(f) “general election” means any general election held after the commencement of this Order for the purpose of constituting the House of the People or the Legislative Assembly of a State and includes a general election whereby the House of the People or the Legislative Assembly of a State in existence and functioning at such commencement, has been constituted;

(g) “paragraph” means a paragraph of this Order;

(h) “political party” means an association or body of individual citizens of India registered with the Commission as a political party under paragraph 3 and includes a political party deemed to be registered with the Commission under the proviso to sub-paragraph (2) of that paragraph;

(i) “State” includes a Union territory;

(j) “sub-paragraph” means a sub-paragraph of the paragraph in which the word occurs; and

(k) words and expressions used but not defined in this Order but defined in the Representation of the People Act, 1950, or the rule made thereunder or in the Representation of the People Act, 1951, or the rules made thereunder shall have the meanings respectively assigned to them in those Acts and rules.

(2) The General Clauses Act, 1897, shall, as far as may be, apply in

relation to the interpretation of this Order as it applies in relation to the interpretation of a Central Act.

3. Registration with the Commission of associations and bodies as political parties for the purposes of this Order.—(1) Any association or body of individual citizens of India calling itself a political party and intending to avail itself of the provisions of this Order shall make an application to the Commission for its registration as a political party for the purposes of this Order.

(2) Such application shall be made—

- (a) if the association or body is in existence, at the commencement of this Order, within sixty days next following such commencement;
- (b) if the association or body is formed after the commencement of this Order, within sixty days next following the date of its formation:

Provided that no such application for registration shall be necessary on the part of any political party which immediately before the commencement of this Order is either a multi-State party or a recognised party other than multi-State party and every such party shall be deemed to be registered with the Commission as a political party for the purposes of this Order.

(3) Every application under sub-paragraph (1) shall be signed by the chief executive officer of the association or body (whether such chief executive officer is known as Secretary or by any other designation) and either presented to a Secretary to the Commission or sent to such Secretary by registered post.

(4) Every such application shall contain the following particulars, namely:

- (a) the name of the association or body;
- (b) the State in which its head office is situate;
- (c) the address to which letters and other communications meant for it should be sent;
- (d) the names of its president, secretary and all other office-bearers;
- (e) the numerical strength of its members, and if there are categories of its members, the numerical strength in each category;
- (f) whether it has any local units; if so, at what levels (such as, district level, thana or block level, village level and the like);
- (g) the political principles on which it is based;
- (h) the policies, aims and objects it pursues or seeks to pursue;
- (i) its programmes, functions and activities for the purpose of carrying out its political principles, policies, aims and objects;
- (j) its relationship with the electors and the popular support it enjoys, and tangible proof, if any, of such relationship and support;
- (k) whether it is represented by any member or members in the House of the People or any State Legislative Assembly; if so, the number of such member or members;
- (l) any other particulars which the association or body may like to mention.

(4) The Commission may call for such other particulars as it may deem fit from the association or body.

(5) After considering all the particulars as aforesaid in its possession and any other necessary and relevant factors and after giving the representatives of the association or body reasonable opportunity of being heard, the Commission shall decide either to register the association or body as a political party for the purposes of this Order, or not so to register it; and

the Commission shall communicate its decision to the association or body.

(6) The decision of the Commission shall be final.

(7) After an association, or body has been registered as a political party as aforesaid, any change in its name, head office, office-bearers, address or political principles, policies, aims and objects and any change in any other material matters shall be communicated to the Commission without delay.

4. Allotment of symbols.—In every contested election a symbol shall be allotted to a contesting candidate in accordance with the provisions of this Order and different symbols shall be allotted to different contesting candidates at an election in the same constituency.

5. Classification of symbols.—(1) For the purpose of this Order symbols are either reserved or free.

(2) Save as otherwise provided in this Order, a reserved symbol is a symbol which is reserved for a recognised political party for exclusive allotment to contesting candidates set up by that party.

(3) A free symbol is a symbol other than a reserved symbol.

6. Classifications of political parties.—(1) For the purposes of this Order and for such other purposes as the Commission may specify as and when necessity therefor arises, political parties are either recognised political parties or unrecognised political parties.

(2) A political party shall be treated as a recognised political party in a State if and only if either the conditions specified in clause (A) are, or the condition specified in clause (B) is, fulfilled by that party and not otherwise, that is to say—

(A) that such party:—

(a) has been engaged in political activity for a continuous period of five years; and

(b) has, at the general election in that State to the House of the People, or, as the case may be, to the Legislative Assembly, for the time being in existence and functioning, returned—
either

(i) at least one member to the House of the People for every twenty-five members of that House or any fraction of that number elected from that State;

or

(ii) at least one member to the Legislative Assembly of that State for every thirty members of that Assembly or any fraction of that number;

(B) that the total number of valid votes polled by all the contesting candidates set up by such party at the general election in the State to the House of the People, or, as the case may be, to the Legislative Assembly, for the time being in existence and functioning, (excluding the valid votes of each such contesting candidate in a constituency as has not been elected and has not polled at least one-twelfth of the total number of valid votes polled by all the contesting candidates in that constituency) is not less than four per cent. of the total number of valid votes polled by all the contesting candidates at such general election in the State (including the valid votes of those contesting candidates who have forfeited their deposits).

(3) For the removal of doubts it is hereby declared that the condition in clause (A) (b) of sub-paragraph (2) shall not be deemed to have been

fulfilled by a political party if a member of the House of the People or the Legislative Assembly of the State becomes a member of that political party after his election to that House or, as the case may be, that Assembly.

7. Two categories of recognised political parties.—(1) If a political party is treated as a recognised political party in accordance with paragraph 6 in four or more States, it shall be known as, and shall have and enjoy the status of, a "National Party" throughout the whole of India; and if a political party is treated as a recognised political party in accordance with that paragraph in less than four States, it shall be known as, and shall have and enjoy the status of a "State party" in the State or States in which it is a recognised political party.

(2) Notwithstanding anything contained in sub-paragraph (1), every political party which, immediately before the commencement of this Order, is a multi-State party shall, on such commencement, be a National Party and shall continue to be so until it ceases to be a National Party on the result of any general election held after such commencement.

(3) Notwithstanding anything contained in sub-paragraph (1), every political party which immediately before the commencement of this Order is in a State a recognised political party, other than a multi-State party as aforesaid, shall, on such commencement, be a State party in that State and shall continue to be so until it ceases to be a State party in that State on the result of any general election held after such commencement.

8. Choice of symbols by candidates of National and State parties and allotment thereof.—(1) A candidate set up by a National party at any election in any constituency in India shall choose, and shall be allotted, the symbol reserved for that party and no other symbol.

(2) A candidate set up by a State party at an election in any constituency in a State in which such party is a State party, shall choose, and shall be allotted, the symbol reserved for that party in that State and no other symbol.

(3) A reserved symbol shall not be chosen by, or allotted to, any candidate in any constituency other than a candidate set up by a National party for whom such symbol has been reserved or a candidate set up by a State party for whom such symbol has been reserved in the State in which it is a State party even if no candidate has been set up by such National or State party in that constituency.

9. Restriction on the allotment of symbols reserved for State parties in States where such parties are not recognised.—A symbol reserved for a State party may be included in the list of free symbols in any State in which that party is not a State party so, however, that such symbol shall not be allotted to any candidate set up by any other political party, recognised or unrecognised, at any election in such State but may be allotted subject to the provisions of paragraph 10 and paragraph 11 to any candidate not set up by any political party (hereinafter referred to as "independent candidate").

10. Concessions to candidates set up by State party at elections in other States.—If a candidate set up by a State party at an election in any constituency in a State in which that party is not a State party, intends to choose or chooses the symbol reserved for it in the States or State in which it is a State party, then such candidate shall be allotted that symbol to the exclusion of any other candidate, and no other symbol, on fulfilment of each of the following conditions, namely:—

(a) that an application is made to the Commission by the party for exclusive allotment of that symbol to the candidate set up by

it not later than the third day after the publication in the official Gazette of the notification calling the election;

- (b) if the block for the symbol is not already available, that there is sufficient time for preparing the block;
- (c) that sufficient time is available to the Commission for sending intimation to the returning officer of the constituency on or before the last date for withdrawal of candidature;
- (d) that in the opinion of the Commission there is no reasonable ground for refusing the application for such allotment.

11. Restrictions on the choice and allotment of symbols allotted under paragraph 10.—Notwithstanding anything contained in any of the foregoing provisions where elections are held simultaneously in a parliamentary constituency and in the assembly constituencies comprised in such parliamentary constituency, then:—

- (a) if a symbol has been exclusively allotted under paragraph 10 to a candidate set up by a political party at the election in the parliamentary constituency, the symbol shall not be allotted to any candidate at any election in any of the said assembly constituencies unless such candidate is a candidate set up by that political party;
- (b) if a symbol has been exclusively allotted under paragraph 10 to a candidate set up by a political party at any election in any of the said assembly constituencies, that symbol shall not be allotted to any candidate at the election in the said parliamentary constituency unless such candidate is a candidate set up by that political party.

12. Choice of symbols by other candidates and allotment thereof.—(1) Any candidate at an election in a constituency in a State other than—

- (a) a candidate set up by a National party; or
- (b) a candidate set up by a political party which is a State party in that State; or
- (c) a candidate referred to in paragraph 10;

shall choose and shall be allotted in accordance with the provisions hereafter set out in this paragraph, one of the symbols specified as free symbols for that State by notification under paragraph 17.

(2) Where any free symbol has been chosen by only one candidate at such election, the returning officer shall allot that symbol to that candidate and to no one else.

(3) Where the same free symbol has been chosen by several candidates at such election, then—

- (a) if of those several candidates only one is a candidate set up by an unrecognised political party, and all the rest are independent candidates, the returning officer shall allot that free symbol to the candidate set up by the unrecognised political party and to no one else, and if of those several candidates two or more are set up by different unrecognised political parties, and rest are independent candidates, the returning officer shall decide by lot to which of the two or more candidates set up by the different unrecognised political parties that free symbol shall be allotted and allot that free symbol to the candidate on whom the lot falls and to no one else;

- (b) if of those several candidates no one is set up by any unrecognised

political party but all are independent candidates and one of the independent candidates is, or was immediately before such election, a sitting member of the House of the People, or, as the case may be, of the Legislative Assembly, and was allotted that free symbol at the previous election when he was chosen as such member, the returning officer shall allot that free symbol to that candidate and to no one else; and

- (c) if of those several candidates being all independent candidates no one is or was a sitting member as aforesaid, the returning officer shall decide by lot to which of those independent candidates that free symbol shall be allotted and allot that free symbol to the candidate on whom the lot falls and to no one else.

13. When a candidate shall be deemed to be set up by a political party.—For the purposes of this Order a candidate shall be deemed to be set up by a political party if, and only if,—

- (a) the candidate has made a declaration to that effect in his nomination paper;
- (b) a notice in writing to that effect has, not later than 3 P.M. on the last day of withdrawal of candidatures, been delivered to the returning officer of the constituency; and
- (c) the said notice is signed by the president, the secretary or any other office-bearer of the party and the president, secretary or such other office-bearer is authorised by the party to send such notice and the name and specimen signature of the president, the secretary or such other office-bearer are communicated in advance to the returning officer of the constituency and to the Chief Electoral Officer of the State.

14. Power of Commission to issue instructions to unrecognised political parties for their expeditious recognition on fulfilment of conditions specified in paragraph 6.—The Commission may issue for the benefit of unrecognised political parties such instructions as it may think necessary for their expeditious recognition when they have fulfilled either of the conditions for such recognition specified in sub-paragraph (2) of paragraph 6.

15. Power of Commission in relation to splinter groups or rival sections of a recognised political party.—When the Commission is satisfied on information in its possession that there are rival sections or groups of a recognised political party each of whom claims to be that party, the Commission may, after taking into account all the available facts and circumstances of the case and hearing such representatives of the sections of groups and other persons as desire to be heard, decide that one such rival section or group of none of such rival sections or groups is that recognised political party and the decision of the Commission shall be binding on all such rival sections or groups.

16. Power of Commission in case of amalgamation of two or more political parties.—(1) When two or more political parties, one or some or all of whom is a recognised political party or are recognised political parties, join together to form a new political party, the Commission may, after taking into account all the facts and circumstances of the case, hearing such representatives of the newly formed party and other persons as desire to be heard and having regard to the provisions of this Order, decide—

- (a) whether such newly formed party should be a National party or a State party, and
- (b) the symbol to be allotted to it.

(2) The decision of the Commission under sub-paragraph (1) shall be binding on the newly formed political party and all the component units thereof.

17. Notification containing lists of political parties and symbols.—(1) The Commission shall by one or more notifications in the Gazette of India publish lists specifying—

- (a) the National parties and the symbols respectively reserved for them;
- (b) the State parties, the State or States in which they are State parties and the symbols respectively reserved for them in such State or States;
- (c) the unrecognised political parties and the State or States in which they function; and
- (d) the free symbols for each State.

(2) Every such list shall, as far as possible, be kept up-to-date.

18. Power of Commission to issue instructions and directions.—The Commission may issue instructions and directions—

- (a) for the clarification of any of the provisions of this Order;
- (b) for the removal of any difficulty which may arise in relation to the implementation of any such provisions; and
- (c) in relation to any matter with respect to the reservation and allotment of symbols and recognition of political parties, for which this Order makes no provision or makes insufficient provision, and provision is in the opinion of the Commission necessary for the smooth and orderly conduct of elections.

19. Cancellation of certain notifications.—Notification No. S.O. 3156, dated the 17th of October, 1966, in so far as it relates to elections in parliamentary constituencies in the State of Jammu and Kashmir, notification No. S.O. 3366, dated the 1st December, 1966, and notification No. 3483, dated the 26th September, 1967, issued by the Commission are hereby rescinded.

[No. 56/68].

By order,

A. N. SEN,

Secretary to the Election Commission of India.